

(2) Donations of food items to non-governmental organizations (NGOs) and individuals in Cuba may also be eligible for License Exception GFT. See § 740.12 for eligibility requirements of gift parcels and humanitarian donations under License Exception GFT.

[66 FR 36681, July 12, 2001, as amended at 73 FR 49329, Aug. 21, 2008; 75 FR 17054, Apr. 5, 2010; 75 FR 31681, June 4, 2010]

§ 740.19 Consumer Communications Devices (CCD).

(a) *Authorization.* This License Exception authorizes the export or reexport of commodities and software described in paragraph (b) to Cuba subject to the conditions in paragraphs (c) and (d) of this section. This section does not authorize U.S.-owned or -controlled entities in third countries to engage in re-exports of foreign produced commodities to Cuba for which no license would be issued by the Treasury Department pursuant to 31 CFR 515.559. Cuba is the only eligible destination under this License Exception.

(b) *Eligible Commodities and Software.* Commodities and software eligible for export or reexport under this section are:

- (1) Computers designated EAR99 or classified under Export Control Classification Number (ECCN) 4A994.b that do not exceed an adjusted peak performance of 0.02 weighted teraflops;
- (2) Disk drives and solid state storage equipment classified under ECCN 5A992 or designated EAR99;
- (3) Input/output control units (other than industrial controllers designed for chemical processing) designated EAR99;
- (4) Graphics accelerators and graphics coprocessors designated EAR99;
- (5) Monitors classified under ECCN 5A992 or designated EAR99;
- (6) Printers classified under ECCN 5A992 or designated EAR99;
- (7) Modems classified under ECCNs 5A991.b.2, or 5A992 or designated EAR99;
- (8) Network access controllers and communications channel controllers classified under ECCN 5A991.b.4 or designated EAR99;
- (9) Keyboards, mice and similar devices designated EAR99;

(10) Mobile phones, including cellular and satellite telephones, personal digital assistants, and subscriber information module (SIM) cards and similar devices classified under ECCNs 5A992 or 5A991 or designated EAR99;

(11) Memory devices classified under ECCN 5A992 or designated EAR99;

(12) “Information security” equipment, “software” (except “encryption source code”) and peripherals classified under ECCNs 5A992 or 5D992 or designated EAR99;

(13) Digital cameras and memory cards classified under ECCN 5A992 or designated EAR99;

(14) Television and radio receivers classified under ECCN 5A992 or designated EAR99;

(15) Recording devices classified under ECCN 5A992 or designated EAR99;

(16) Batteries, chargers, carrying cases and accessories for the equipment described in this paragraph that are designated EAR99; and

(17) “Software” (except “encryption source code”) classified under ECCNs 4D994, 5D991 or 5D992 or designated EAR99 to be used for equipment described in this paragraph (b).

(c) *Donation requirement.* This License Exception authorizes the export or reexport of eligible commodities and software that will be donated by the exporter or reexporter to an eligible end-user or to eligible end-users free of charge. The payment by an end-user of any handling charges arising within the importing country or any charges levied by the government of the importing country shall not be considered a charge for purposes of this paragraph.

(d) *Eligible end-users*—(1) *Organizations.* This License Exception may be used to export or reexport eligible commodities and software to and for the use of independent non-governmental organizations. The Cuban Government or the Cuban Communist Party and organizations they administer or control are not eligible end-users.

(2) *Individuals.* This License Exception may be used to export eligible commodities and software to and for the use of individuals other than the following officials of the Cuban Government and Cuban Communist Party:

(i) *Ineligible Cuban Government Officials.* Ministers and vice-ministers; members of the Council of State; members of the Council of Ministers; members and employees of the National Assembly of People's Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors and deputy editors of Cuban state-run media organizations and programs, including newspapers, television, and radio; or members and employees of the Supreme Court (Tribuno Supremo Nacional).

(ii) *Ineligible Cuban Communist Party Officials.* Members of the Politburo; the Central Committee; Department Heads of the Central Committee; employees of the Central Committee; and the secretaries and first secretaries of provincial Party central committees.

[74 FR 45989, Sept. 8, 2009]

§ 740.20 License Exception Strategic Trade Authorization (STA).

(a) *Introduction.* This section authorizes exports, reexports and in country transfers, including releases within a single country of software source code and technology to foreign nationals in lieu of a license that would otherwise be required pursuant to part 742 of the EAR.

(b) *Requirements and Limitations—(1) Requirements for Using License Exception STA.* (i) All of the reasons for control that impose a part 742 license requirement on the *export, reexport or in country transfer* must be addressed in at least one authorizing paragraph of this section.

(ii) The party using License Exception STA must comply with all of the requirements in paragraph (d) of this section.

(2) *Limitations on Use of License Exception STA.* The prohibitions and limits of this paragraph (b)(2) apply notwithstanding the authorizations in paragraph (c) of this section.

(i) License Exception STA may not be used in lieu of any license requirement imposed by “Part 744—Control Policy: End User and End Use Based” or by “Part 746—Embargoes and Other Special Controls” of the EAR.

(ii) License Exception STA may not be used for any item controlled under ECCNs 0A981, 0A982, 0A983, 0A985 or 0E982.

(iii) License Exception STA may not be used for any item that is controlled for reason of encryption items (EI), short supply (SS), surreptitious listening (SL), missile technology (MT) or chemical weapons (CW).

(iv) License Exception STA may not be used for any item identified on the CCL as being subject to the exclusive export control jurisdiction of another agency, such as the Department of State, the Department of Energy, or the Nuclear Regulatory Commission.

(v) License Exception STA may not be used for any item controlled by ECCN 1C351.a, .b, .c, .d.11, .d.12 or .e, ECCNs 1C352, 1C353, 1C354, 1C360, 1E001 (*i.e.*, for technology, as specified in ECCN 1E001, for items controlled by ECCN 1C351.a, .b, .c, .d.11, .d.12 or .e or ECCNs 1C352, 1C353, 1C354 or 1C360) or ECCN 1E351.

(vi) Toxins controlled by ECCN 1C351.d.1 through 1C351.d.10 and 1C351.d.13 through 1C351.d.19 are authorized under License Exception STA to destinations indicated in paragraph (c)(1) of this section, subject to the following limits. For purposes of this paragraph, all such toxins that are sent from one exporter, reexporter or transferor to a single end-user, on the same day, constitute one shipment.

(A) The maximum amount of any one toxin in any one shipment may not exceed 100 milligrams.

(B) No exporter, reexporter or transferor may send more than six shipments of any one toxin to any one end user in a single calendar year.

(vii) Commerce Control List Category 9 limitations on use of License Exception STA.

(A) License Exception STA may not be used for 9D001 or 9D002 “software” that is specially designed or modified for the “development” or “production” of: